
To: Zoning Administrator Hearing
Subject: Additonal Materials Received

Item No. 2a: Additional Materials Received
Zoning Administrator Hearing – November 28, 2012
Poppy Avenue Child Daycare MUP (PA2012-127)

From: Elisa Garrett [<mailto:elisa302@yahoo.com>]

Sent: Sunday, November 25, 2012 5:14 PM

To: Henn, Michael; Rosansky, Steven; Hill, Rush; Daigle, Leslie; Selich, Edward; Gardner, Nancy; Curry, Keith; Michael Toerge; Bradley Hillgren; Fred Ameri; Brown, Tim; Kory Kramer; Jay Myers; Larry Tucker; Kiff, Dave; Whelan, Melinda; Brine, Tony; Brandt, Kim; Wisneski, Brenda

Subject: 613 Poppy Avenue Expansion Hearing on Wednesday, 11/28/12

Dear Receipients,

I have attached the Notice of Public Hearing on Wednesday 11/28, and Code Amendment established in 2006 regarding the request of Kate Martin to expand her daycare center from a Small Day Care Facility (8 or fewer children) to a Large Day Care Facility (9 to 14 children).

On November 16th 2006 a code amendment was passed that requires the applicant of a Large Day Care facility to receive a Use Permit from the Planning Director, approval from the Traffic Engineer, and meet Off Street Parking requirements of "2 per site" for drop off and pick up purposes (in addition to the spaces required for the dwelling units).

There are two homes on the lot at 613 Poppy where the Small Day Care Facility is operating. They have 4 parking spaces (2 covered and two in a garages).

The applicant is purposing to consider the two homes as one, and therefore use the two spaces in "The Alley" to provide drop off and pick up.

Please forward this to the Traffic Engineer, and Planning Director and ask them to PLEASE DO NOT APPROVE THIS USE PERMIT!!

The intent of the Code Amendment established in 2006 was to provide "additional parking" for a Large Day Care Facility. This is clearly a way to circumvent that.

If a Large Day facility is granted it will increase the number of children allowed from 8 to 14.

Even a samll increase in the number of children would place it in the Large Day Care Facility Use and open up the possibility for future expansion.

There would also be an increase in the care takers/employees working in the home.

The additional 6 children is almost double the existing use approved, and will cause a major impact in Noise and Congestion.

The Alley is already cramped, small, and unsafe. The day care facility is currently using the front of the home on Poppy street for drop off and pick up.

The parents park in the red in front of the hydrant, on the wrong side of the street, and impact the residents enough with traffic and noise.

Approval of this use permit would create $14 \times 2 = 28$ additional trips a day in and out of the alley between Poinsettia and Poppy with cars backed up blocking resident use at prime use hours of morning and evening.

Additionally, once approved, the State is left to enforce any infringements of "too many children", which they are not very effective at.

I see no way that the City can enforce the conditions of approval that it has placed either.

While collecting signatures I also found that none of the residents along Poinsettia received the notice, yet would be impacted by the alley congestion.

I have a petition with 19 signatures of residents surrounding 613 Poppy opposing the expansion and hope to have more by Wednesday to deliver to the Zoning Administrator.

Unfortunately many people were out of town this weekend and not around to sign or there would be even more.

The staff report is inaccurate in its findings that there have been no complaints.

There have been complaints to both the City and State and Police by both myself and other neighbors.

The staff report is also inaccurate in that the rear home is routinely rented out.

Please do not allow this to happen and create an even larger problem than the one that exists now.

Expansion of this facility is unsafe, unwanted, and unneeded.

Thank you,
Joe Garrett
(949) 205-9237

CITY OF NEWPORT BEACH - NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, November 28, 2012, at 3:30 p.m.**, or soon thereafter as the matter shall be heard, a public hearing will be conducted in the City Council Chambers (Building A) at 3300 Newport Boulevard, Newport Beach. The Zoning Administrator of the City of Newport Beach will consider the following application:

Poppy Avenue Child Daycare - A request for a minor use permit to convert an existing at-home child daycare from a small licensed facility (up to 8 children) to a large licensed facility (9-14 children). The property is developed with two detached dwelling units. The existing and proposed daycare is located in the front single-story cottage unit and front yard area adjacent to Poppy Avenue. Parking for residents and the child daycare would be provided by the existing two-car garage and two existing carport spaces (4 spaces total). Proposed hours of operation are from 7:30 a.m. to 6:00 p.m. Monday through Friday.

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities)

All interested parties may appear and present testimony in regard to this application. If you challenge this project in court, you may be limited to raising only those issues you raised at the public hearing or in written correspondence delivered to the City, at, or prior to, the public hearing. Administrative procedures for appeals are provided in the Newport Beach Municipal Code Section 20.64. The application may be continued to a specific future meeting date, and if such an action occurs additional public notice of the continuance will not be provided. Prior to the public hearing the agenda, staff report, and documents may be reviewed at the Planning Division (Building C, 2nd Floor), 3300 Newport Boulevard, Newport Beach, California, 92663 or at the City of Newport Beach website at www.newportbeachca.gov/zoningadministrator. Individuals not able to attend the meeting may contact the Planning Division or access the City's website after the meeting to review the action on this application.

For questions regarding this public hearing item please contact Melinda Whelan, Assistant Planner, at (949) 644-3221, mwhelan@newportbeachca.gov.

Project File No.: PA2012-127

Activity No.: UP2012-021

Zone: R-2 (Two-Family Residential)

General Plan: RT (Two-Unit Residential)

Location: 613 Poppy Avenue

Applicant: Kate Martin

RESOLUTION NO. *

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF NEWPORT BEACH RECOMMENDING THE
ADOPTION OF CODE AMENDMENT NO. 2006-007 (PA
2006-211)**

**THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS,
RESOLVES AND ORDERS AS FOLLOWS:**

WHEREAS, on September 26, 2006, the City Council initiated amendments to Title 20 of the City of Newport Beach Municipal Code to revise land use regulations for day care centers; and

WHEREAS, public hearings were held on October 19, 2006 and November 16, 2006 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting; and

WHEREAS, the Planning Commission finds as follows:

1. Current land use regulations for day care centers do not distinguish between facilities for children and those for adults.
2. The California Child Day Care Facilities Act allows cities to adopt reasonable standards, restrictions, and requirements for family day care homes concerning spacing and concentration, traffic control, parking, and noise control.
3. The adoption of such regulations is necessary in order to protect the character of the City's residential neighborhoods.
4. The proposed action is not defined as a project under the California Environmental Quality Act (CEQA) because it involves general policy and procedure making activities not associated with a project or a physical change in the environment (Section 15378 of the CEQA Guidelines).

NOW, THEREFORE, BE IT RESOLVED that based on the aforementioned findings, the Planning Commission hereby recommends that the City Council of the City of Newport Beach adopt Code Amendment No. 2006-007 to Title 20 of the Newport Beach Municipal Code as provided in Exhibit A.

PASSED, APPROVED AND ADOPTED THIS 16th DAY OF NOVEMBER 2006.

AYES: _____

NOES: _____

BY: _____

Jeffrey Cole, Chairman

BY: _____

Robert Hawkins, Secretary

Section 20.66.030

Revise the Off-Street Parking and Loading schedule as follows:

Off-Street Parking and Loading Spaces Required

Use Classification	Off-Street Parking Spaces	Off-Street Loading Spaces
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RESIDENTIAL

GROUP RESIDENTIAL

1 covered per 2 guest rooms.

DAY CARE, LIMITED

-LARGE FAMILY CHILD CARE HOMES

2 per site for drop-off and pick-up purposes (in addition to the spaces required for the dwelling unit).

EXHIBIT A

20.05.030 Residential Use Classifications

- A. Day Care, Limited. "Day Care, Limited" means non-residential, non-medical care and supervision of ~~twelve (12)~~ fourteen or fewer persons on a less than twenty-four hour basis. This classification includes, but is not limited to, nursery schools, preschools, and day care centers for children (large and small family day care homes) and adults.

1. Large Family Child Care Homes. Day care facilities located in single-family residences where an occupant of the residence provides care and supervision for nine to fourteen children. Children under the age of 10 years who reside in the home count as children served by the day care facility.

2. Small Family Child Care Homes. Day care facilities located in single-family residences where an occupant of the residence provides care and supervision for eight or fewer children. Children under the age of 10 years who reside in the home count as children served by the day care facility.

Section 20.05.040 Public and Semipublic Land Use Classifications

- F. Day Care, General. Provision of non-medical care for ~~thirteen~~ fifteen or more persons on a less than 24-hour basis. This classification includes nursery schools, preschools, and day care centers for children or adults.

Sections 20.10.020, 20.41.050, 20.43.060 (B), 20.44.035, 20.45.030 (B)

Revise land use regulation schedules to add large family child care homes and small family child care homes, to permit large family child care homes with a use permit approved by the Planning Director, to permit small family child care homes by right, and add a cross reference to new Section 20.60.130 (Day Care Facilities for Children).

20.60.130 Day Care Facilities For Children

- A. Applicability. Day care facilities for children shall comply with the following standards. These standards shall apply in addition to those requirements imposed by the California Department of Social Services.
- B. Licensing. California Department of Social Services licensing is required for all day care facilities for children.
- C. Care Provider's Residence. Each family child care home shall be the principal residence of the care provider and the use shall be clearly residential in character, and be incidental and secondary to the use of the property as a residence.
- D. Additional Standards. Each family child care home shall comply with applicable building and fire Codes, and standards adopted by the State, and Social Services Department licensing requirements (California Code of Regulations, Title 22, Division 2).
- E. Use Permit Required for Large Family Child Care Homes. In addition to the requirements of Section 20.60.130 A-D, large family child care homes shall require a use permit issued by the Planning Director. The Planning Director shall approve the use permit if the large family child care home complies with Section 20.60.130 A-D and the following:
1. Separation Requirement. No large family child care home within a residential district shall be located within 500 feet of an existing large family child care home or other day care facility.
 2. Drop-off/Pick-up Area. A minimum of 2 off-street parking spaces as a drop-off and pick-up area shall be provided in addition to those required for the dwelling unit. A driveway may be used to provide these spaces, provided it is approved by the Traffic Engineer based on traffic and pedestrian safety considerations.
 3. Noise. In order to protect adjacent residential dwellings from noise impacts, a facility within a residential district may only operate a maximum of 14 hours for each day between the hours of 6:00 a.m. and 8:00 p.m. and may only conduct outdoor activities between the hours of 7:00 a.m. and 7:00 p.m.

Representative Parking Standards for Large Family Child Care Homes

Community	Standard
Costa Mesa	The city council may adopt general standards that may be applied to large family day care home applications on a case-by-case basis. The final review authority may use these standards to impose conditions upon the approval to achieve the purposes set forth in section 13-31 and to maintain neighborhood stability and cohesiveness.
Dana Point	1 stall/2 employees, plus 1 stall/5 children, based on facility capacity.
Laguna Beach	1 space for each staff member, plus, 1 space for each 5 children, or 1 space for each 10 children where a circular driveway or its equivalent, designed for the continuous flow of passenger vehicles for the purpose of loading and unloading children and capable of simultaneously accommodating at least 2 such vehicles, is provided on the site.
San Clemente	A passenger loading plan shall be approved by the decision-making body having authority over the permit for the large family day care home.
Cotati	<p>A minimum of two off-street parking spaces shall be provided in addition to those required by Section 17.36.040 (Number of Parking Spaces Required) for the single-family dwelling. The driveway may be used to provide these spaces, if the driveway is of sufficient length to accommodate the parking of two vehicles without either blocking any sidewalk or other pedestrian access.</p> <p>A home located on a site with no on-street parking immediately in front of the site shall provide two offstreet parking spaces for drop-offs in addition to the spaces required by Subsection C.2.a.</p> <p>A home located on a street with a speed limit of 30 miles per hour or greater shall provide two off-street parking spaces for drop-offs in addition to the spaces required by Subsection C.2.a, that are designed to prevent vehicles from backing onto the street (e.g., circular driveway).</p>
Loomis	<p>3 spaces minimum; may include spaces provided to fulfill residential parking requirements and on-street parking so long as it abuts the site.</p> <p>At least two off-street parking spaces shall be provided exclusively for dropping off and picking up children. The driveway may be used to provide the off-street parking required by Section 13.36.040, if the parking will not obstruct any required drop-off and pick up areas nor block any sidewalks or other public access. Alternative parking and drop-off arrangements may be approved by the director based on traffic and pedestrian safety considerations.</p> <p>A home located on a street with a speed limit of thirty-five miles per hour or greater shall provide a drop-off/pick-up area designed to prevent vehicles from backing onto the street (e.g. circular driveway).</p>
Novato	<p>1 space per employee, in addition to required residential spaces.</p> <p>Off-street parking shall be as determined through use permit approval, but shall be a minimum of one space per employee on the largest shift.</p> <p>A safe area for picking up and dropping off children shall be provided. This activity shall only be allowed in a driveway, in an approved parking area, or in an area with direct access to the facility.</p> <p>The use shall not negatively impact on-street parking in the neighborhood.</p>
Sonoma	All dwellings used for large family day care facilities shall provide at least three (3) automobile parking spaces. These may include spaces already provided to fulfill residential parking requirements and on-street parking so long as it abuts the site.

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COTATI

ATTACHMENT A

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**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

Agenda Item No. 6
November 16, 2006

TO: PLANNING COMMISSION

FROM: Planning Department
Patrick J. Alford, Senior Planner
(949) 644-3235
palford@city.newport-beach.ca.us

SUBJECT: Code Amendment 2006-007
Day Care Regulations (PA 2006-211)

ISSUE:

Should Title 20 (Zoning Code) of the Newport Beach Municipal Code be amended to revise the land use regulations to distinguish day care centers for children and those for adults and establish spacing, concentration, and operational standards?

RECOMMENDATION:

Adopt the attached resolution recommending approval of Code Amendment No. 2006-007 to the City Council.

DISCUSSION:

Background:

Large Family Child Care Homes are day care facilities located in residences where an occupant of the residence provides care and supervision of no more than fourteen (14) children. The California Child Day Care Facilities Act preempts local land use regulations, but allows cities and counties to adopt reasonable standards, restrictions, and requirements for Large Family Child Care Homes, including those concerning parking. The proposed code amendment include a requirement that a drop-off/pick-up area must be identified and approved by the City's Traffic Engineer. This was the only parking standard proposed.

The Planning Commission held a public hearing on the proposed code amendment on October 19, 2006. The Commission continued the hearing and directed staff to return with an off-street parking requirement.

Analysis:

A review of other communities that have adopted standards for Large Family Child Care Homes require a drop-off/pick-up area or off-street parking spaces based on the number of children and/or employees, or both. Some communities place additional restrictions on drop-off/pick-up areas that require vehicles to back out onto arterial streets or streets with speed limits of 30 or 35 miles per hour or higher. Representative standards from a number of communities are provided in Attachment A.

The Institute of Transportation Engineers (ITE) publication *Parking Generation* contains information on parking demand rates for various land uses. The ITE database includes an analysis of 17 suburban and 21 urban day care locations, 75 percent of which were located in Tennessee. This data is taken from large commercial day care facilities and not the smaller, residentially-based Family Child Care Homes. These facilities averaged 85 children, 17 employees, and 4,200 square feet of gross floor area. Nevertheless, this data can provide a benchmark to determine the appropriate off-street parking requirement.

The ITE analysis indicates an average peak period parking demand from 0.09 to 0.51 vehicles per child with an average of 0.24 vehicles per child. Vehicles per employee ranged from 0.53 to 2.50 with an average of 1.35 vehicles per employee. Vehicles per square foot ranged from 1.18 to 8.67 per 1,000 square feet of gross floor area with an average of 3.16 vehicles per 1,000 square feet of gross floor area. Counts were taken between 7:00 and 9:00 a.m. and between 4:00 and 6:00 p.m.

Basing the parking requirement on the number of children or employees would be problematic since it would be difficult to verify and the numbers may vary over time. Therefore, establishing a set minimum number of off-street parking spaces per site is recommended.

After reviewing the requirements from other communities and the ITE analysis, staff believes that two (2) off-street parking spaces should be sufficient to accommodate the parking demand for a facility with fourteen (14) children or less. This requirement would be in addition to the two (2) off-street parking spaces required for the dwelling unit. A driveway may be used for this purpose, provided the City's Traffic Engineer has approved it as safe for dropping off and picking up children.

Environmental Review:

The proposed action is not defined as a project under the California Environmental Quality Act (CEQA) because it involves general policy and procedure-making activities not associated with a project or a physical change in the environment (Section 15378 of the CEQA Guidelines).

Public Notice:

Notice of the October 19, 2006 hearing was published in the *Daily Pilot* a minimum of 10 days in advance of this hearing consistent with the Municipal Code. This included an eighth page advertisement. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Submitted by:


Patrick J. Atford
Senior Planner


David Lepo
Planning Director

Attachments:

- A. Representative parking standards for Large Family Child Care Homes.
- B. Draft resolution.
- C. October 19, 2006 Planning Commission staff report.

CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

Agenda Item No. 5
October 19, 2006

TO: PLANNING COMMISSION

FROM: Planning Department
Patrick J. Alford, Senior Planner
(949) 644-3235
palford@city.newport-beach.ca.us

**SUBJECT: Code Amendment 2006-007
Day Care Regulations (PA 2006-211)**

ISSUE:

Should Title 20 (Zoning Code) of the Newport Beach Municipal Code be amended to revise the land use regulations to distinguish day care centers for children and those for adults and establish spacing, concentration, and operational standards?

RECOMMENDATION:

Adopt the attached resolution recommending approval of Code Amendment No. 2006-007 to the City Council.

DISCUSSION:

Background:

The City Council initiated the proposed amendment on September 26, 2006.

Introduction:

The proposed amendment is intended to address the concern of potential over concentration of day care centers in residential neighborhoods. Day care facilities supervising twelve (12) or fewer persons (Day Care, Limited) are permitted by right in residential, commercial, and institutional zoning districts, while day care facilities supervising thirteen (13) or more persons (Day Care, General) require a use permit. The concern is that large day care centers could be established on abutting single-family residential lots or within dwelling units on a two-family or multifamily residential lot. Thus, a residential neighborhood would be impacted by what is effectively a large day care facility, but without the regulatory controls of a use permit.

The City's regulation of day care centers reflects the California Child Day Care Facilities Act. This State law prohibits cities and counties from prohibiting "family day care homes" for children on lots zoned for single-family dwellings. This preemption establishes two types of family day care facilities: "small family day care homes for eight (8) children or less and "large family day care homes" for seven (7) to fourteen (14) children¹. Furthermore, cities and counties are required to either permit large family day care homes by right in residential zones or grant nondiscretionary permits for large family day care homes in single-family zones. Reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control are permitted.

The Zoning Code does not incorporate all of the distinctions provided for under the State law. Both small and large day care facilities for children are included in the Day Care, Limited land use classification, which includes facilities for children or adults. Furthermore, the Zoning Code contains no regulations regarding spacing and concentration, traffic control, parking, and noise control.

Analysis:

The proposed amendment revises the land use regulations to distinguish day care centers for children and those for adults, as provided for under State law. This involves adding two new subgroups under the Day Care, Limited land use classification: Large Family Child Care Homes for nine (9) to fourteen (14) children and Small Family Child Care Homes for eight (8) or fewer children.

Small family child care homes must be permitted by right. However, State law allows the City the option of requiring a use permit for large family child care homes. The use permit must be nondiscretionary, meaning that it must be approved if the large family child care home complies with all local regulations. Therefore, it is proposed that large family child care homes require a use permit issued by the Planning Director.

The proposed amendment adds a new section to the Zoning Code (Section 20.60.130) that requires all family child care homes (small and large) to be the principal residence of the care provider, to be licensed by the State, and comply with applicable building and fire codes and any standards adopted by the State. These are all State requirements, but referencing them in the Zoning Code allows for local enforcement.

As stated earlier, State law allows the City to adopt reasonable standards, restrictions, and requirements for large family child care homes concerning spacing and concentration, traffic control, parking, and noise control. Therefore, the proposed amendment adds a new section to the Zoning Code (Section 20.60.130), which includes the following

¹ The Zoning Code does currently not reflect the change in State law that increased the size of small family day care homes from 6 to 8 children and large family day care homes from 12 to 14.

standards:

- Spacing/Concentration. A large family child care home must be located at least five hundred (500) feet from an existing day care center.
- Drop-off/Pick-up. A drop-off/pick-up area must be identified and approved by the City's Traffic Engineer.
- Noise. A large family child care home may only operate a maximum of fourteen (14) hours for each day between the hours of 6:00 a.m. and 8:00 p.m. and may only conduct outdoor activities between the hours of 7:00 a.m. and 7:00 p.m.

Environmental Review:

The proposed action is not defined as a project under the California Environmental Quality Act (CEQA) because it involves general policy and procedure-making activities not associated with a project or a physical change in the environment (Section 15378 of the CEQA Guidelines).

Public Notice:

Notice of this hearing was published in the *Daily Pilot* a minimum of 10 days in advance of this hearing consistent with the Municipal Code. This included an eighth page advertisement. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Submitted by:

Patrick J. Alford
Senior Planner

Patricia L. Temple
Planning Director

Attachments:

1. Draft resolution.

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